

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5336 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RUKSHMANI EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

MR MUKUND M DESAI for Petitioners

MR VB GHARANIA AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 05/10/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr. Gharania, learned Assistant Government Pleader for the respondents. The petitioner applied before the concerned authorities of the respondents for granting permission to open new Higher Secondary School with grant from the academic year 1997-98 in the prescribed form alongwith the requisite papers and/or documents and requisite fees

of Rs. 5,000/-. The respondent No. 2 informed that for the reasons stated in the communication, permission cannot be granted. The petitioner, therefore, approached the first respondent by way of an appeal and explained that the reasons given by the first mentioned authority are not correct and the order is passed without application of mind. Since the second mentioned authority also did not apply its mind to the case of the petitioner, the petitioner moved the Minister of Education for the grant of necessary permission. The Minister of Education and the Chief Minister, at the relevant point of time, decided to grant permission to the petitioner for opening new Higher Secondary School as prayed for. In spite of such decision having been taken and in spite of the recommendation from the present Minister of Education, necessary permission is yet not granted.

2. I have heard the learned advocate for the petitioner as well as the learned Assistant Government Pleader for the State. Mr. Desai has made a reference to the Government Resolution dated 1st September, 1997 Annexure "I" to the petition by referring to the according of permission for opening Higher Secondary Schools. It is his submission that even this Government Resolution dated 1st September, 1997, apart from the orders of the concerned Ministers, has escaped the attention of the first respondent. It has been submitted by the Mr. Gharania, learned Assistant Government Pleader that the aforesaid Government Resolution is not applicable to the General Stream for which the permission is sought for. However, the case of the petitioner may be considered in accordance with law coupled with the recommendations made by the concerned Minister/s. In that view of the matter, following direction is required to be issued:

3. The impugned orders passed by the concerned respondent are hereby quashed and set aside. The concerned respondent is hereby directed to consider the matter afresh in accordance with law after hearing the petitioner and keeping in view the orders passed by the concerned Ministers. No other reliefs are required to be granted to the petitioner. Rule is accordingly made absolute with no order as to cost.

5.10.1998. (M.S.Parikh,J.)

Vyas